

THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY  
CAMDEN VICINAGE

KEITH YAEGER, MICHAEL SCHULER,  
JOSEPH MONTGOMERY, BRYAN BAIR,  
THOMAS VANLAARHOVEN, LAURA HEGLE,  
KIM MARIE PAPA, ROBERT TEDESCO,  
and NATALIE TUZOVSKAYA,  
individually and on behalf of all  
others similarly situated,

Plaintiffs,

v.

SUBARU OF AMERICA, INC., a  
New Jersey Corporation, and  
FUJI HEAVY INDUSTRIES, LTD.,  
a Japanese Corporation,

Defendants.

: Consolidated Action Nos.  
: 1:14-cv-4490-JBS-KMW and  
: 1:14-cv-6317-JBS-KMW

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**CLASS ACTION**

## ORDER

**THIS MATTER** having been opened to the Court on the application of defendant Subaru of America, Inc. ("Subaru"), by and through its attorneys, Ballard Spahr LLP, for a an order dismissing various claims in plaintiffs' Master Consolidated Complaint;

**AND** the Court having read and considered the  
submissions and arguments of the parties;

**AND** for good cause appearing;

**IT IS** this \_\_\_\_ day of \_\_\_\_\_, 2015 hereby  
**ORDERED** that Subaru's Motion to Dismiss Plaintiffs' Master  
Consolidated Complaint is hereby **GRANTED**, and the following  
claims are dismissed with prejudice:

- (a) All claims for injunctive relief;
- (b) All claims on behalf of the putative Emissions Warranty Class;
- (c) Counts I, II, III, and IV, to the extent alleged under New Jersey law, as to plaintiffs Yaeger, Schuler, Montgomery, Bair, Hegle, Papa and Tedesco;
- (d) Count II, alleging a breach of express warranty, as to plaintiff Hegle;
- (e) Count III, alleging a breach of the implied warranty of merchantability, as to all plaintiffs;
- (f) Count IV, alleging a violation of the implied covenant of good faith and fair dealing, as to all plaintiffs;
- (g) Counts VIII and IX, alleging violations of New York General Business Law §§ 349 and 350, as to plaintiff Papa;
- (h) Count XIII, alleging a violation of California's Secret Warranty Law, as to plaintiffs Yaeger, Montgomery and Hegle; and
- (i) Count XIV, alleging a violation of the Magnuson-Moss Warranty Act based on an alleged breach of the emissions warranty, as to all plaintiffs.

**BY THE COURT:**

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**Jerome B. Simandle**  
**Chief U.S. District Judge**